IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 311 OF 2004

Jitendra Parshuram Aadhav ... Petitioner

versus

State of Maharashtra ... Respondent

...

Mr. Deepak Girme with Mr. Kuldeep Patil, for the Petitioner.

Mr. V.B. Konde Deshmukh, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

19th October 2004

P.C.:

. Heard Counsel for the parties. Rule. Rule made returnable forthwith by consent. Mr. Konde Deshmukh, A.P.P., waives service for the Respondent. As short question is involved, petition taken up for final disposal forthwith by consent.

. The Petitioner has been convicted for

offence punishable under section 142 of the Bombay Police Act on the ground that the Petitioner flouted the externment order which was operating against him by entering into prohibited area. The Petitioner is not questioning the correctness of the findings reached by the two Courts below holding him guilty. The only argument canvassed before this Court is that the Petitioner is in custody since 30th July 2004 and has already undergone substantial part of the sentence awarded by the trial Court, which has been confirmed by the appellate Court. The trial Court has sentenced the Petitioner to undergo rigorous imprisonment for six months. According to the Petitioner, no offence has been registered against the Petitioner at least since 1998, coupled with the fact that the Petitioner has properly conducted himself during the present incarceration and has shown good behaviour. The Petitioner submits that the sentence be converted to already undergone by imposing fine in lieu of the remainder period of sentence to be suffered by the Petitioner. There is nothing on record to show that any untoward incident has been reported during the present incarceration. The learned A.P.P. submits that if at all this Court is

inclined to reduce the sentence imposed by the Court below, which is the minimum provided by section 142 of the Act, in that case, this Court may impose fine on the Petitioner at least in the sum of Rs. 10,000/-.

. Having considered the rival submissions, in the peculiar facts and circumstances of the case, I am inclined to reduce the sentence imposed by the Court below to the one already undergone which is almost 3 months in lieu whereof fine to be paid by the Petitioner in the sum of Rs. 10,000/-; in default the Petitioner to undergo the remainder period of the sentence imposed by the Court below. The sentence is modified in the above terms.

. This petition accordingly succeeds to the above extent.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)